

**Sunsets 1/1/2016**

**48-1-4 Rules for determining the existence of a partnership.**

In determining whether a partnership exists these rules shall apply:

- (1) Except as provided by Section 48-1-13, persons who are not partners as to each other are not partners as to third persons.
- (2) Joint tenancy, tenancy in common, tenancy by entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.
- (3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.
- (4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:
  - (a) As a debt by installments or otherwise.
  - (b) As wages of an employee or rent to a landlord.
  - (c) As an annuity to a widow or representative of a deceased partner.
  - (d) As interest on a loan, though the amounts of payment vary with the profits of the business.
  - (e) As the consideration for the sale of the good will of a business or other property by installments or otherwise.